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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,365	11/14/2000	Edward B. Gindele	81759RLO	9092

7590 01/29/2004
Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER

DANG, DUY M

ART UNIT PAPER NUMBER

2621

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,365

Applicant(s)

GINDELE ET AL.

Examiner

Duy M Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6, 8-12 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6, 8-12, and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed 11/10/03 has been entered and made of record.
2. Claims 1-3, 7, and 13-24 were canceled.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 4-6, 8-12, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuman (US Patent No. 6,069,982. Art of record, IDS filed 11/14/00, paper #2).

Regarding claim 25, Reuman teaches a method for estimating noise in digital image (see abstract), comprising:

a) prior to capturing the digital image, accumulating statistical data in a first statistical table relating to noise associated with the particular film type and produced from a second scanner device (see box 4 of figure 1 and the selection of the default spatial device profile tags mentioned in col. 5 lines 19-33. Note the profile tags including look-up table of noise variance (col. 4 lines 18-33) corresponds to the so called "first statistical table relating to noise associated with the particular film type and produced from a second scanner device");

b) using pixels of the digital image to calculate a second statistical table related to the noise in the digital image (i.e., the generating noise characteristic shown in box 10 of figure 1. Note the "noise characteristics" mentioned in cited portion corresponds to the so called

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“statistical table”. This interpretation is consistent with the Applicant’s disclosed page 2 lines 11-12); and

c)using the first statistical table and the second statistical table to provide an updated third statistical table related to the noise associated with the particular film type (i.e., update the selected default information shown at 12 in figure 1 and detailed in figure 2 and the text portion mentioned in col. 3 lines 31-34).

Regarding claim 4, Reuman further teaches a series of standard deviation values for different ranges of intensity provided by the first scanner (see “noise variance” mentioned in col. 5 lines 59-62).

Regarding claim 5, Reuman further teaches at least one histogram (see “histograms” shown at 27 in figure 2A).

Regarding claim 6, Reuman further teaches a series of histograms for different ranges of intensities provided by the first scanner (see col. 7 line 66 to col. 8 line 15).

Regarding claim 8, Reuman further teaches wherein noise characteristic is used in processing the digital image for enhancing such digital image (see col. 3 lines 7-9).

Regarding claim 9, Reuman further teaches a spatial filter (see lowpass and highpass filters mentioned in col. 7 lines 25-35).

Regarding claim 10, Reuman further teaches using noise characteristic table and noise reduction filter to calculate an enhanced digital image (see col. 7 lines 28-31).

Regarding claim 11, Reuman further teaches using noise characteristic table and a sharpening filter to calculate an enhanced digital image (see col. 7 lines 31-34).

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Regarding claim 12, Reuman further teaches using noise characteristic table, noise reduction filter, and a sharpening filter to calculate an enhanced digital image (see col. 7 lines 28-34 and figure 3C).

5. Applicant's arguments filed 11/10/03 have been fully considered but they are not persuasive.

In reply to Applicant remarks with regard to claim 25 that Reuman et al. does not combine statistical data derived from different images devices (see page 4 fourth paragraph lines 3-4). It is noted that the features upon which applicant relies (i.e., combine statistical data derived from different images devices) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The examiner acknowledges that claim 25 does mention "first scanner" and "second scanner device". However, the "first scanner" is merely mentioned in the preamble. Thus, the recitation of the "first scanner" and/or different image devices" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In reply to Applicant's remarks that Reuman does not teach or suggest that statistic should only be taken from noise with a particular film type (see page 4 fourth paragraph lines 5-

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6), the examiner disagrees because Reuman does teach these features. For example, the default spatial device profile tags (col. 5 lines 19-33) including look-up table of noise variance (col. 4 lines 18-33) in Reuman corresponds to the so called statistic taken from noise with a particular film type. This interpretation is consistent with Applicant's disclosed figure 2, item 202 (source type identification tag) and page 18 lines 35-30.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M Dang whose telephone number is 703-305-1464. The examiner can normally be reached on Monday to Thursday from 6:30AM to 5:00PM..

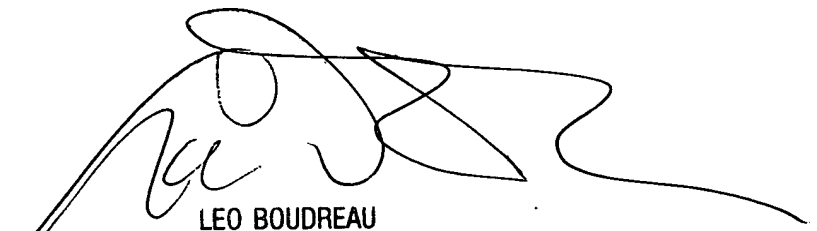
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo H Boudreau can be reached on 703-305-4706. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

dmd

dmd
1/14/04



LEO BOUDREAU
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